IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

: O R D E R :

S.B. Criminal Revision Petition No.1147/2006.
(Angrez Singh Vs. State of Rajasthan & Anr.)

DATE OF ORDER : March 08, 2007

P R E S E N T

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. B.S. Sandhu for the petitioner.
Mr. S.N. Tiwari, P.P.

BY THE COURT :

By this revision petition, the petitioner seeks to challenge order dated 07.11.2006 passed by Addl. Sessions Judge, Sri Karanpur in Sessions Case No.8/2005 whereby the learned Judge reversed the order passed by the trial Court and allowed maintenance at the rate of Rs.500/- per month to non-petitioner No.2.

According to the facts of the case inter alia an application was filed by non-petitioner under Section 125, Cr.P.C. in the year 1974 and the same was allowed by the learned Addl. Chief Judl. Magistrate, Sri Karanpur and maintenance was fixed to the tune of Rs.80/- per month for non-petitioner No.2 and Rs.20/- per month for her son Buta Singh who was minor at that time. Non-petitioner No.2 moved an application under Section 127, Cr.p.C. for enhancing the said amount from Rs.80/- to Rs.2,500/- per month. The said application was rejected by the Addl. Chief Judl. Magistrate, Sri Karanpur vide order dated 03.03.2005 observing that the petitioner is making payment of Rs.160/- per month and non-petitioner has agricultural land, therefore, no question of enhancement of the amount of maintenance arises. Against said order dated 03.03.2005, the non-petitioner preferred revision petition before the Sessions Court. Vide the order impugned dated 07.11.2006, the learned Addl. Sessions Judge, Sri Karanpur enhanced the amount and ordered that the petitioner shall pay Rs.500/- per month as maintenance and thus set aside the order dated 03.03.2005. The order was made applicable by the revisional Court from the date of order.

The petitioner is challenging the said order dated

07.11.2006 in the present revision petition on various grounds and it is contended by learned counsel for the petitioner that the non-petitioner has 14 bigha agricultural land in her name and the learned revisional Court has committed error in not considering the reasons given by the learned Addl. Chief Judl. Magistrate which, in the facts and circumstances of the case, are just and proper. It is further contended that the petitioner is 62 years of age and he is already paying the amount of maintenance allowed since last almost 30 years. Learned counsel for the petitioner submits that the petitioner is an old man and he has no source of income, therefore, the order of the revisional Court is illegal and contrary to the evidence on record.

I have perused the order passed by the revisional Court.

The revisional Court while deciding the revision petition has rightly observed that due to change of social and financial conditions and escalation of prices even the government has enhanced the pension which is awarded to the BPL families from Rs.100/- to Rs.400/-. Likewise, admittedly, the non-petitioner is wife of the petitioner and for last 30 years she was getting only a meagre amount of Rs.160/- per month which is certainly not sufficient for survival. It is also observed that for the purpose of

illness and other requirements of life in the old age the amount of Rs.500/- is barely enough. Therefore, in my opinion, the learned revisional Court has rightly enhanced the amount of maintenance and passed order that the petitioner shall pay monthly maintenance at the rate of Rs.500/-. In the facts and circumstances of the case, the order of the trial Court has rightly been set aside.

Learned counsel for the petitioner invited attention of the Court towards judgment reported in 2002 (4) WLC (Raj.) 253. In that case, the co-ordinate Bench of this Court only interfered with the order that non-petitioner (therein) shall get the increased amount with effect from 29.03.2001 instead of 23.05.1994. In the present case, the order of the revisional Court is as follows :

> "फलस्वरूप निगरानीकर्ता हरमेलकौर की ओर से प्रस्तुत यह निगरानी विरूद्ध गैरनिगरानीकर्ता अंग्रेजसिंह स्वीकार की जाती है एवं गैर निगरानीकर्ता को आदेश दिया जाता है कि वह निगरानीकर्ता को 500/- रूपये प्रतिमाह की दर से भरण पोषण भत्ता इस आदेश की तिथि से प्रत्येक माह में अदा करे। अधीनस्थ न्यायालय का आदेश दिनांक 03-03-2005 अपास्त किया जाता है। अधीनस्थ न्यायालय की पत्रावली इस आदेश की सत्यप्रति सहित अविलम्ब अधीनस्थ न्यायालय को लौटाई जाये।"

The revisional Court has passed order which is in consonance with the judgment cited by learned counsel for the petitioner. In the facts and circumstances, no interference is warranted.

The revision petition is accordingly dismissed.

(Gopal Krishan Vyas) J.